

From: Free, Richard
To: 'microsoft.atr(a)usdoj.gov'
Date: 1/22/02 7:55pm
Subject: Microsoft Settlement

Good Day,

I must express my concern regarding the current PFJ in the case against Microsoft. I have been in the computer industry for close to a decade and in numerous cases have had occasion to detest some of the practices that I see Microsoft engage in. Many of those practices have had direct detrimental impact upon my trying to establish my own business.

They have in the past, on more than one occasion, either been convicted of, or settled out of court for, practices that are anti-competitive. This most recent ruling is only one example of many. In each case the remedies sought have only been effective at curtailing practices based on old technology that no longer has any bearing. The current case is no different. The court MUST find a way to stop their illegal practices in the future. The portions of the current PFJ that I am familiar do not do that.

One portion I find particularly distasteful and downright shameful is the requirement that they should donate a certain number of PC's running Windows software to schools that don't have them. That is not unlike requiring the drug pusher to supply drugs and paraphernalia to people that are not users. It gives opportunity to have many more people locked into a platform that has already been determined to be anti-competitive.

A far better solution would be to increase the number of computers being donated by at least a 100 fold with the caveat that those PC's may not be allowed to run any software written, developed or sold by Microsoft. Those computers should run some version of Linux and they should be supported entirely by monies supplied by Microsoft for the entire time that each of the computers are in service. In other words as long as any computer donated as part of a settlement action is still being used in any capacity, Microsoft should pay whatever funds are necessary to support those computers. This should include paying for upgrades to memory and hard drives and replacement of ANY failed components during the entire time the computers are in service.

Microsoft has used illegal practice to beat competitors into the dust. They have been convicted of being a monopolist. Whatever settlement there is should be punitive in nature and should have the effect of stimulating their competition, weak as it may be, and not their user base in any way shape or form. The other effect it should have is to discourage such practices by other companies.

Another suggestion I would make is that they be broken up into several different companies. A personal operating systems company, an applications

company, a server company and a services company. These companies should be absolutely separate in all aspects.

They should publish those parts of their API's that are required to interoperate with their software royalty free. In this way others will be able to compete on a level playing field that does not currently exist.

One last point I should make. One of the definitions (definition U. to be specific) in the PFJ states in part:

....The software code that comprises a Windows Operating System Product shall be determined by Microsoft in its sole discretion.

Microsoft should not be allowed to determine in its sole discretion anything of the sort. This is tantamount to a crook being allowed to define what theft is and would be a huge hole that Microsoft would then use to redefine what an operating system is. This would in effect sabotage yet another Federal judgment against them as they have done in the past. Instead, outside agencies and experts intimately familiar with software development should be the ones determining that. An excellent example can be found at:

<http://www.kegel.com/remedy/remedy2.html#fix.defs>

In the past Microsoft has been convicted of similar practices and the judgments have done nothing to cause them to change their behavior. In fact they are more arrogant and brazen now than they were in the past. I cannot help but believe that is due in part to past failed and insufficient judgments being crafted. I adjure you to craft a settlement that will actually have teeth to it. Both punitive and preventative in nature.

I appreciate the time taken in reviewing this. While I am sure it is not as learned as many other objections are, it is none-the-less submitted with great concern.

Thank you.

Richard Free
IT Manager
Peak Industries
email: rfree at peakind dot com

Phone: 303.678.8585 ext 315
Fax: 303.678.8138
<http://www.peakind.com>